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#### Contract Database Metadata Elements

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# AGREEMENT

by and between the

**TOWN OF PORTLAND**

and

**CSEA Local 1000 AFSCME,  
AFL-CIO**

**RECEIVED**

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**NYS PUBLIC EMPLOYMENT  
RELATIONS BOARD**

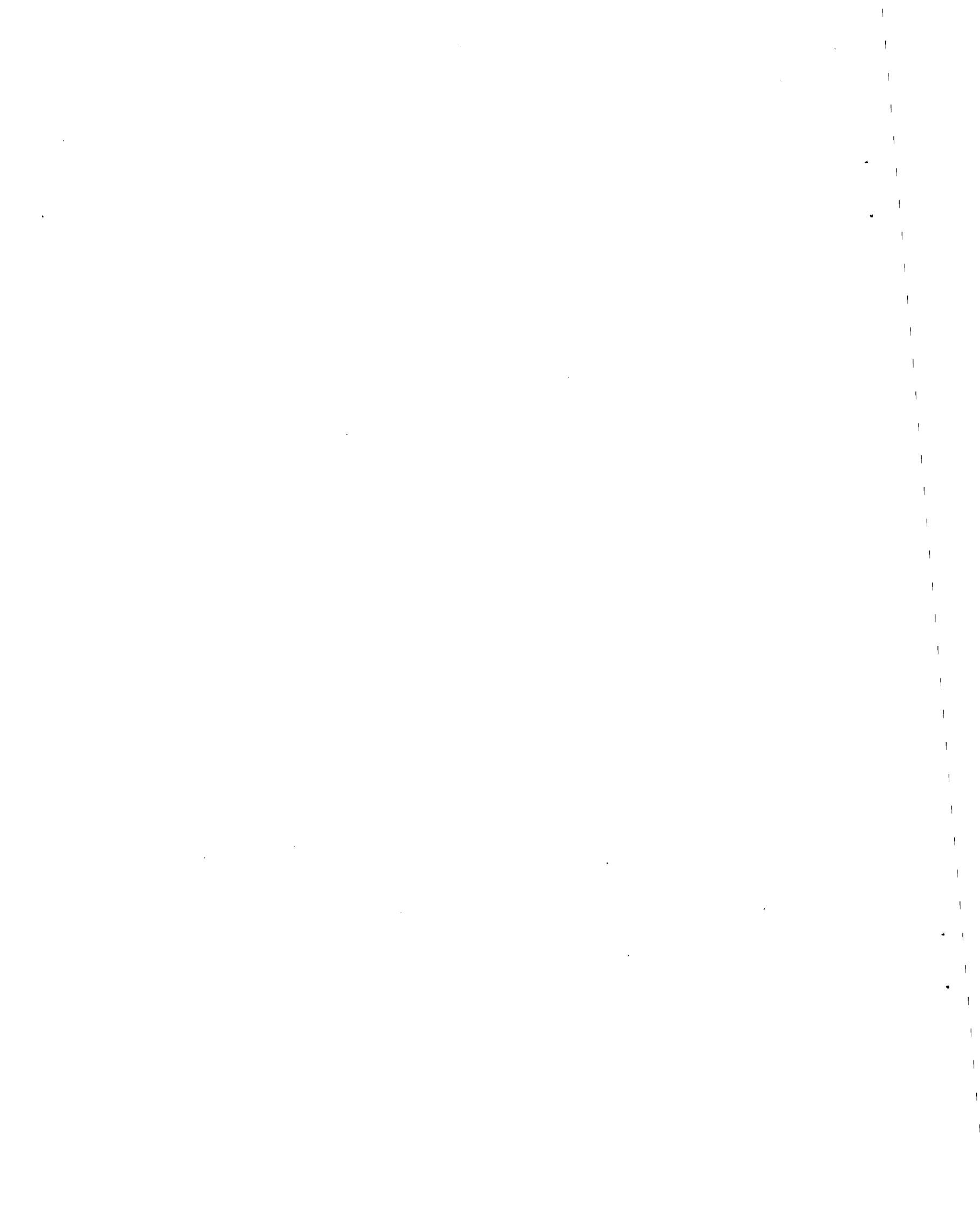
**Since 1910**



**New York's LEADING Union**

Town of Portland Unit #6321-00  
Chautauqua County Local 807

**January 1, 2007 - December 31, 2009**



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## **ARTICLE 1 – RECOGNITION**

The Employer agrees that the Civil Service Employees Association, Inc., Local 1000, AFSCME, AFL-CIO, herein referred to as the CSEA, is the certified union for the Town of Portland Unit 6321-00 Local 807, Case No. C-5653, and shall be the sole and exclusive representative for all full-time employees of the Town of Portland for the purpose of collective bargaining with respect to salaries, wages, hours and all other terms and conditions of employment.

## **ARTICLE 2 – NO STRIKE/NO LOCKOUT**

**Section 1:** The CSEA and the employees it represents affirm that they do not assert the right to strike against the employer and shall not cause, instigate, encourage, participate in, or condone a strike. Similarly, the Employer does hereby affirm and agree that it will not engage in a lockout of the employees covered by this Agreement.

**Section 2:** Violation of Section 1 shall be grounds for disciplinary action up to and including discharge, subject to the provisions of this Agreement.

## **ARTICLE 3 – DUES DEDUCTION AND AGENCY SHOP**

### **Section 1 – Dues/Payroll Deductions**

The Civil Service Employees Association, Inc. shall have exclusive right to payroll deduction of dues and other deductions for union-sponsored insurance and benefit program premiums, including Accident and Health Insurance, Life and/or Supplemental Life Insurance, Master Plan and/or Permanent Life Insurance for employees covered by this Agreement. Such dues and premiums shall be remitted by separate check to the Civil Service Employees Association, Inc., 143 Washington Avenue, Albany, NY 12210, on a payroll period basis. No other employee organization shall be accorded any payroll deduction privilege without the express consent and written authorization of the Civil Service Employees Association, Inc.

## **Section 2 – Agency Shop**

The Civil Service Employees Association Inc., having been recognized as the exclusive representative of employees within the bargaining unit represented by this Agreement, shall have deductions made from the wage/salary of employees of said bargaining unit who are not members of the Civil Service Employees Association, Inc., the amount equivalent to the dues levied by the Civil Service Employees Association, Inc. The Employer shall make such deductions and transmit the amount so deducted, along with a listing of such employees, to the Civil Service Employees Association, Inc., 143 Washington Avenue, Albany, NY 12210.

The CSEA shall hold the Town of Portland harmless from any action resulting from agency fee deductions, or any other deductions specified in Section 1 above.

## **ARTICLE 4 - RIGHT TO REPRESENTATION**

### **Section 1 – Rights of CSEA**

The CSEA shall have the sole and exclusive right with respect to other organizations to represent all employees in the heretofore defined bargaining unit in any and all proceedings under the Public Employees Fair Employment Act, or any other applicable law, rules, regulations or statute, under the terms and conditions of this Agreement, to designate its own representatives and to direct, manage and govern its own affairs; to determine those matters which the membership wishes to negotiate and to pursue all such objectives free from any interference, restraint, coercion or discrimination by the employer or any of its agents. The CSEA shall have the sole and exclusive right to pursue any matter or issue including but not limited to the grievance and appeal procedure in this Agreement and to pursue any matter or issue to any court of competent jurisdiction, whichever is appropriate; and shall not be held liable to give any non-member any of its professional, legal, technical or specialized services.



## **Section 2 – Rights of Employees**

Any employee covered by the provisions of this Agreement shall be free to join or refrain from joining the CSEA without fear of coercion, reprisal or penalty from the CSEA or the Employer.

Employees may take an active role in the activities of CSEA without fear of any kind of reprisals from the Employer or its agents. An employee has the right to request representation by CSEA in all matters concerning employment with the Employer.

## **Section 3 – Access to Members**

CSEA representatives shall, on an exclusive basis, except during campaign periods and periods of challenge as defined in Section 208 of the Civil Service Law, have access to employees during work hours to explain CSEA membership, services and programs. Such access shall not interfere with work duties or work performance.

Except as noted above, the employer agrees that no other representative or organization offering benefits or programs similar to those offered or sponsored by CSEA shall be provided access to bargaining unit employees. The employer further agrees that it will not permit any other organization or union to hold meetings during work hours for the purpose of discussing terms and conditions of employment, or be provided meeting space for the purposes stated above, on property or premises owned or occupied by the Town of Portland.

## **Section 4 – Employee Information**

Within thirty (30) days of the ratification of this Agreement, the employer shall supply to Civil Service Employees Association, Inc., or its authorized representative, a list of all employees in the bargaining unit showing the employee's full name, home address, last four digits of his/her social security number, job title, work location, membership status, insurance deduction and first date of employment. Such information shall hereafter be provided as requested.

## **Section 5 – CSEA Bulletin Boards**

Notice of CSEA meetings and CSEA activities may be posted on Town bulletin boards in a section of such bulletin boards reserved for its exclusive use.

## **Section 6 – Union Business**

The CSEA Unit President or his designee shall be allowed time away from his or her duties without loss of pay or charge to leave accruals for the purpose of investigating or filing grievances or attending meetings during the grievance process including arbitration, in representing employees at any or all stages of a disciplinary matter, to represent CSEA before the Public Employment Relations Board or any other tribunal, and to attend mutually agreed upon labor/management meetings.

## **ARTICLE 5 – SENIORITY/LAYOFF/RECALL**

### **Section 1 - Seniority**

Seniority shall be defined as length of continuous service with the Town of Portland. As used in this paragraph continuous service includes only those periods when an employee is on the employer's active payroll and those periods when an employee is: (a) on an approved leave of absence; (b) on-layoff; (c) absent from and unable to perform the duties of his/her position by reason of a disability resulting from occupational injury or disease; (d) such other periods of service, if any, as the Civil Service Law requires to be treated as part of the employees continuous service. Subject to the applicable provisions of the Civil Service Law, if any, an employee loses his seniority only when one or more of the following occurs: (a) he resigns (unless reinstated within the period permitted by any applicable provisions of the Civil Service Law; (b) he is discharged; (c) he retires; or (d) he refuses a recall from layoff.

## **Section 2 – Layoff and Recall**

**A. Non-competitive:** All layoffs in the non-competitive and labor class shall be based on inverse seniority. Before any permanent incumbent in the non-competitive or labor class shall be laid off; all part-time, temporary, or probationary employee shall be laid off first in that order. Any employee in a non-competitive labor or labor class who is laid off shall have the right to retreat to any position held previously on a permanent basis or to any position for which he/she has the qualifications to perform the duties of the position and has more seniority than the person being displaced, so long as the position is in the non-competitive or labor class.

**B. Recalls:** Recalls to service in the classified service shall be made in reverse order of layoff. An employee shall remain on a recall list for a period of (2) years. The employer shall be prohibited for a period of two (2) years from hiring new employees in the classification affected by the layoff or to any position for which laid off employees may be qualified until all laid off employees are called back to service.

## **ARTICLE 6 – HOURS OF WORK/OVERTIME**

### **Section 1 - Workday/Workweek**

Except as modified below for snow and ice season, the normal work schedule for members of the bargaining unit shall consist of five consecutive workdays Monday through Friday with two consecutive days off. The workweek for the Highway and Water Department shall consist of forty (40) hours per week. The workweek for the full-time clerical employee(s) shall consist of thirty-five (35) hours per week. Unless mutually agreed upon by the parties the normal hours of work will be from 7:00 a.m. to 3:30 p.m. for the Highway and Water Departments and 8:00 a.m. to 4:00 p.m. for Town Hall employees. Evening hours for the Court Clerk will be as determined by the Judge.

## **Section 2 – Snow and Ice Season**

Employees shall be assigned to shifts during the snow and ice season on a rotational basis. Shifts for snow and ice season shall be early shift 4:00 a.m. to 11:00 a.m. (paid for eight hours) and regular shift 7:00 a.m. to 3:30 p.m. Volunteers to work the initial second shift will be sought. If there are no volunteers, then the least senior employees will be assigned to work the second shift for one week. Thereafter, employees shall be rotated on a seniority basis every week.

## **Section 3 – Breaks**

Two (2) fifteen (15) minute breaks shall be scheduled each workday at approximately mid-point between 7:00 a.m. and noon for the morning break and 1:00 p.m. and 3:30 p.m. for the afternoon break. The timing of breaks may be altered upon agreement between the Town and the Union. The time for the two fifteen (15) minute breaks and the lunch period shall commence when the employees return to the shop from their work locations(s) or, when working in the field, other arrangements may be utilized. There shall be a one (1) hour unpaid lunch break for employees working at Town Hall. There shall be a thirty (30) minute unpaid lunch break for Highway and Water Department employees.

## **Section 4 – Timekeeping**

- A) All employees shall keep written record of hours worked.
- B) All employees working out of the Town office building shall keep their time record by use of a time card stamped by the time clock.
- C) Highway and Water Department employees' time will be recorded on a time sheet to be kept by the Highway Superintendent.
- D) All vacation, personal and sick-time, etc. must be recorded on a time sheet and turned into the immediate supervisor.

E) Employees who punch-in or report within the first fifteen minutes of the commencement of their shift shall be paid to the start of their shift. Employees who work fifteen (15) or fewer minutes beyond the normal ending time will be paid at their regular hourly rate of pay.

If an employee works past fifteen (15) minutes, they shall be paid for all time worked after the end of their shift. However, if an employee works beyond his/her normal shift on overtime or call back, they shall be paid in "plus one-quarter hour" increments, as is the current practice.

F) If for any reason, a Town office employee is unable to arrive at work at his/her respective starting time, that employee is to notify the Town Clerk's office of their inability to arrive timely at work.

G) Highway and Water Department employees are to notify the highway superintendent or his designee. This call must be made no later than one-half ( $\frac{1}{2}$ ) hour after the shift starts and include what type of accrued time is to be used so it can be entered on the employee's time record.

## **Section 5 – Overtime**

Employees of the Highway and Water Department shall receive overtime at the rate of time and one-half their normal hourly rate of pay for all hours worked over forty (40) in a workweek. Clerical employees shall receive overtime at the rate of time and one-half their normal hourly rate of pay for all hours worked over thirty-five (35) in a workweek. No employee may work overtime unless authorized by the Department Head. All work must stop when the employee has reached the normal workweek unless authorized by the Department Head. Employees shall have the right to work their complete shifts and their shifts shall not be curtailed by the employer to avoid the payment of overtime compensation to the employees. All hours paid, shall count as time worked for the purposes of computing overtime.

Subject to the limitation set forth below, employees may at their option receive compensation for overtime work in the form of monetary payment or compensatory time off or a combination of the two, in accordance with and subject to any and all applicable state or federal statutes and the rules and regulation promulgated under those statutes.

If there is less than four (4) hours of overtime the employee shall elect either compensatory time or monetary payment for said overtime work.

If there is more than four (4) hours of overtime, the employee may elect all compensatory time, all monetary payment, or one-half (1/2) of each compensatory time or monetary payment.

Unless, mutually agreed otherwise, an employee may accumulate no more than eighty (80) hours of comp time during the period from September 1st to August 31st in the succeeding year. Comp time must be used by October 31<sup>st</sup>, following the previous September 1<sup>st</sup> – August 31<sup>st</sup> accrual period, or the employee shall be paid (cashed out) for said comp time at their rate of pay at the time it was earned.

Compensatory time shall be granted at the same rate as overtime would have been paid.

### **Section 6 – Overtime Distribution**

All permanent employees covered by this Agreement within a department shall have an equal opportunity to work overtime. Except in the case of an emergency, all overtime will first be offered to employees covered by this Agreement before such work is performed by other Town employees. If an employee in line for overtime refuses that time, or it is not available, then the refusal or non-availability will be counted as his turn at overtime. However, the employee's turn will not be lost if he is ill or on authorized leave, as approved by the Department Supervisor.

### **Section 7 – Call-Back**

An employee who is called in to work shall receive a minimum of two (2) hours pay at time and one-half his/her normal rate of pay. The employee shall be paid from the time he answers the call to come to work, when such call back is made less than thirty (30) minutes of when the employee is required to report to work. Where the call back is made two or more hours prior to when the employee is required to report to work only the two-hour minimum will be guaranteed.

## **ARTICLE 7 – COMPENSATION**

### **Section 1 - Wages**

Effective July 1, 2007, the annual salary or hourly rate of each employee shall increase by three percent (3%) over the rate in effect on June 30, 2007.

Additionally, each employee covered by this agreement shall receive a one-time payment of four hundred eighty-nine dollars (\$489), which shall be paid upon ratification of this agreement.

Effective January 1, 2008, the annual salary or hourly rate of each employee shall increase by three percent (3%) over the rate in effect on December 31, 2007.

Effective January 1, 2009, the annual salary or hourly rate of each employee shall increase by three percent (3%) over the rate in effect on December 31, 2008.

Employees covered by this Agreement will be paid on a bi-weekly basis on Friday. If a payday falls on a scheduled holiday every effort will be made to issue paychecks on the preceding business day.

New hires covered by this Agreement shall be paid in the following manner effective:

First Year	85% of rate
Second Year	90% of rate
Third Year	100% of rate

## **Section 2 - Longevity**

Employees covered by this Agreement shall be paid a one-time longevity payment in accordance with the following chart:

<b>Years of Service</b>	<b>Amount</b>
5	\$200.00
10	\$500.00
15	\$700.00
20	\$900.00
25	\$1,200.00
30+	\$1,500.00

Longevity shall be paid on the first pay date following the employee's anniversary date of hire. An employee who retires shall be eligible to receive longevity on a prorated basis in the year in which he/she retires.

## **Section 3 - Mileage Reimbursement**

The Town will pay mileage at the rate determined by the Internal Revenue Service. When a personal vehicle is used for Town business or attendance at schools or training, payment for mileage will be approved by the Town Board at its next monthly meeting after receipt of a voucher for same.

## **Section 4 - Meal Allowance**

The Town will pay for meals, according to a schedule adopted by the Town Board for an employee when attending an approved activity.

Meal vouchers will be approved at monthly board meetings following receipt of a voucher with receipts attached for the meal(s).



## **Section 5 - Clothing Allowance**

The Town of Portland will continue to provide work pants and t-shirts for employees covered by this contract in accordance with past practice. Additionally, effective January 1, 2008 employees shall receive a work clothing allowance of two hundred dollars (\$200.00) upon submission of a receipt for same. Work clothing shall also include the cost of safety shoes.

Effective January 1, 2008 safety glasses shall be handled in the following manner:

1. Frames and lenses one time every two (2) years, or;
2. If the prescription changes, lenses one (1) time per year.
3. Employees will first utilize the vision plan attached to the Health Insurance program.
4. Thereafter, the Town will pay the difference between the benefits provided by the vision plan and the cost of the lenses and or frames, up to a maximum of one hundred dollars (\$100.00).
5. If such safety glasses are damaged in the course of performing the employee's job duties, the Town will pay to repair or replace them.

## **Section 6 - Protective Devices/Damage Reimbursement**

A. For those whose job performance requires it, the Town shall provide at no cost to the employee, necessary foul weather gear and safety equipment. Foul weather gear shall include: rainsuit top and bottom, rubber over boots, one pair winter gloves. Safety equipment shall mean: safety glasses or goggles, ear plugs, safety vests, gloves and hard hats.

B. All Town issued rain or safety gear will be inspected annually by the employer to insure that such equipment is in serviceable condition. Any such equipment found during inspection, or at any other time, to be worn or damaged beyond the point of continued service shall be replaced within ten (10) working days by the employer. Employees will report any damage to rain or safety gear to their supervisors so that such gear can be inspected to determine whether replacement or repair is required.

C. All Town issued rain and/or safety gear shall remain the property of the Town and is provided for the exclusive use of the employee while performing his duties for the Town.

D. Failure to wear OSHA required and Town provided safety equipment apparel while on the job may result in disciplinary action.

E. Employees will be required to wear steel-toed safety shoes while performing Town work assignments.

F. When an employee's personal property items such as but not limited to watches, glasses, etc. are damaged, destroyed or stolen in the conduct of Town business, the Town is authorized to reimburse the employee for reasonable and necessary repairs or replacement upon presentation of the following documentation: time, date and location of the incident; extent of the damage; explanation of how the incident occurred; cost of repair or replacement; and other information as necessary to review the claim. In events where the employee negligently causes the loss, damage or destruction of the property, the Town may waive payment of the claim. All claims shall be addressed within sixty (60) days.

G. To be eligible for reimbursement, the employee must demonstrate that no other sources of reimbursement for the damaged item (insurance or warranty) have been applied for and/or received before the Town makes payment of the claim.

## **Section 7 – Deputy Highway Superintendent**

The employee designated to act as Deputy Highway Superintendent shall receive a stipend in accordance with the following chart:

Effective:

July 1, 2007	\$1,050
January 1, 2008	\$1,100
January 1, 2009	\$1,150

### **Section 8 – Deferred Compensation (457)**

The Town will continue to make available a Deferred Compensation (457) plan and will provide for the necessary payroll deduction for same.

## **ARTICLE 8 - RETIREMENT**

The Town of Portland participates in the New York State Retirement System according to law. Those benefits shall be provided by the New York State Retirement and Social Security Law Section 75-I, 41-J.

## **ARTICLE 9 - PAID LEAVES AND OTHER LEAVES OF ABSENCE**

### **Section 1 - Vacation Leave**

All employees covered by this Agreement, who have been in continuous employment of the Town for six (6) months will be eligible for vacation time and vacation pay based upon their seniority from most recent date of hire as follows:

6 months up to one year	1 week
1 year through 4 years	2 weeks
5 years through 9 years	3 weeks
10 years through 19 years	4 weeks
20 years and beyond	5 weeks

Employees must notify their supervisor when they would like to take their vacation. When two or more employees express a choice for the same vacation week(s), and all of them cannot be spared in the interest of the department operational requirements, seniority will be observed in the scheduling of the individual vacations involved. All earned vacation time not used by December 31st during a calendar year shall be converted to sick time hour for hour.

## **Section 2 - Holidays**

A. All employees covered by this Agreement are eligible for fifteen (15) paid holidays a year. The following shall be recognized as holidays:

- |                            |                   |                            |
|----------------------------|-------------------|----------------------------|
| 1} Birthday (Floating)     | 6} Memorial Day   | 11} Veteran's Day          |
| 2} New Years Day           | 7} Fourth of July | 12} Thanksgiving Day       |
| 3} Martin Luther King Day* | 8} Labor Day      | 13} Day after Thanksgiving |
| 4} Presidents Day          | 9} Columbus Day   | 14} Christmas Day          |
| 5} Good Friday             | 10} Election Day  | 15} Day after Christmas    |

\* Used as a floating holiday.

B. If a holiday falls on a Saturday it will be observed on the proceeding Friday, if it falls on a Sunday, the following Monday.

C. An employee who is required to work on a Holiday shall receive their regular wages for that day and shall receive in addition, pay at the rate of time and one-half the regular rate of pay, or at the employee's option, credit for compensatory time at the rate of time and one-half for all hours worked.

D. No holiday pay will be allowed unless the employee has worked on a full shift on the employee's last regularly scheduled working day previous to the holiday, the employee's first scheduled work day after the holiday and the day of the holiday (if the employee is scheduled to work on the holiday), except when an employee is absent because of approved leave days, compensatory time (approved in advance of the holiday by the employee's department head except in cases of emergency), verified authorized sick leave or disability on the day before or after the Holiday due to injury occurring on the job.

This section will not be applied in a discriminatory manner and, if such determination is made that medical documentation is to be provided, such notice shall be made to the employee in advance.

### **Section 3 - Personal Days**

All employees covered by this Agreement shall have three (3) personal days, (eight (8) hours each) for Department of Public Works and Water Department, seven (7) hours each for Town Hall per year, these days must be taken at least one (1) hour at a time, must be used in the same year earned. All personal time must be recorded on the employee's time sheets. Personal leave not utilized will roll over to sick time.

### **Section 4 - Sick Leave**

#### **A. Sick Leave Accrual**

All full-time employees shall earn sick time at one (1) day per full month worked, which may be accumulated as follows:

Maximum Days to be Accrued	
July 1, 2007	200 days
January 1, 2008	205 days
January 1, 2009	210 days

Employees shall notify their immediate supervisor as soon as possible when using sick time. All time must be recorded on the employee's time sheet. A document from a physician shall be required when more than three consecutive days of sick leave are used or employee will not be paid. For purposes of retiree health insurance, unused sick time may be accumulated to a total not to exceed the amounts shown in the chart above and may be used by an employee or their spouse toward health insurance, upon retirement or death, pursuant to Article 10, Section 3 hereinafter set forth. Sick leave may be used for time off to care for an ill family member as approved by the Town Board. Family member must be immediate family, parent, child, spouse, or significant other.

## **B. Eligibility**

To be eligible for a paid sick leave, an employee must make every effort to notify his/her immediate supervisor by cell phone if available within the following time limits, unless failure to give such notice is beyond the employee's control:

1<sup>st</sup> Shift – as soon as possible, but at least thirty (30) minutes prior to the normal time that the employee is scheduled to start work.

2<sup>nd</sup> and 3<sup>rd</sup> Shift – as soon as possible, but at least forty-five (45) minutes prior to the normal time that the employee is scheduled to start work.

"Immediate Supervisor" shall mean: DPW/Water-Superintendent of Highways or his/her designee. Town Hall – Town Supervisor or his/her designee.

## **C. Sick Bank**

Any full time employees with accumulate sick time may donate accumulated hours of sick time to a fellow employee, who has exhausted his/her sick time, in the event of the other employee suffering a personal sick leave emergency. Time will be deducted from the donating employee's accumulated sick time, not to exceed his/her accumulated sick time. Authorization for this must be done in writing to the Town Supervisor.

## **D. Worker's Compensation**

Employee's necessarily absent from duty because of an occupational injury, disease or condition as defined in the Workers' Compensation Law, shall continue to receive their regular pay. At such time as the claim is fully determined by the Workers' Compensation Board, such monetary award for lost wages as is granted by that Board shall be assigned and surrendered to the Town of Portland.

## **Section 5 - Bereavement Leave**

All employees shall be allowed three (3) consecutive working days off with pay for each death in the immediate family. For the purpose of this section, the term "immediate family" shall be defined as the affected employee's father, mother, current wife, current husband, brother, sister, current mother-in-law, current father-in-law, grandparents, step-children, and grandchildren.

## **Section 6 - Jury Duty**

An employee shall be entitled to his usual straight time pay for the scheduled workdays he serves as a juror or is subpoenaed as a witness in any court. As a condition to being paid his usual rate of pay, he shall turn over to the Town the fees earned as a juror, retaining the mileage allowance. An employee will receive his usual straight time hourly rate of pay for a maximum of one (1) month.

Thereafter, the employee shall be allowed to charge such time against any accrual standing to his/her credit.

## **Section 7 - Leaves of Absence**

All employees are covered by the Family and Medical Leave Act and where appropriate the New York State Civil Service Law. Leaves of absence for personal reasons will be granted, without pay, unless otherwise stated by the Town Board or required by the Family and Medical Leave Act, or in cases of personal emergency.

## **Section 8 - Military Service**

Any employee who enters or is called to duty in the military service of the United States shall be entitled upon completion of his/her service, to be re-employed in accordance with all rights and privileges provided by law. An employee who is required by his/her status as a member of a bona fide reserve unit of the Armed Forces to perform a two (2) week training period or is called to duty in any calendar year shall be entitled upon proof of pay from the United States government, supplementary pay as follows: The Town will pay the difference between his/her scheduled work week rate and the rate he/she received from the Government for two (2) weeks. Any other compensation will be rendered as provided by Federal and State statute.

## **ARTICLE 10 - HEALTH INSURANCE**

### **Section 1 - Health Insurance Plan**

The Town will pay 100% of the premium cost; single, two person or three, plus family for all employees covered by this Agreement.

Health Insurance will be provided through the Blue Cross/Blue Shield Community Blue 202 Plus Plan as described in the Benefits Summary dated December 1, 2006 prepared by the Lawley Benefits Group, as amended and updated by the December 1, 2007 plan summary.

If on Plan anniversary date the premium increases, the parties agree to reopen this Agreement for the sole purpose of discussing the possible cost sharing the premium increase, as well as exploring other health insurance plan options.

No change in the health insurance plan may be made without the Agreement of CSEA.



## **Section 2 - Health Insurance Waiver**

The Town offers a buy out option whereby it will pay an employee thirty percent (30%), in quarterly payment, pro rata the number of days employed by the Town in the current year, of the annual health insurance premium the employee would be eligible to have paid by the Town. The election to participate in the buy out program must be made on or before September 30th of the preceding year. An election is final for the year once made and cannot be revoked by the employee. The election must be made annually and does not bind the employee for the next year.

The election shall be made upon a form provided by the Town Clerk and filed in the Town Clerk's office on or before September 30th each year.

In the event an employee loses his/her alternative health insurance coverage, they shall be allowed to reenter the health insurance program designated above subject to the requirements of the health insurance provider. If such loss of coverage occurs and employees reenter the health insurance plan, they shall be eligible to receive a prorated health insurance waiver payment, for the period prior to the re-entry into the health insurance plan.

## **Section 3 - Retiree Health Insurance**

Upon retirement an employee or upon the death of an employee their spouse shall be entitled to receive continued health insurance coverage for the number of months determined by multiplying unused accumulated sick time days for the employee, up to number of days reflected in the chart below, times their current computed hourly rate based on their work week and dividing that total by the monthly cost of insurance coverage. In the event that the health insurance coverage premium increases, the number of months will be adjusted accordingly.

<b>July 1, 2007</b>	<b>200 days</b>
<b>January 1, 2008</b>	<b>205 days</b>
<b>January 1, 2009</b>	<b>210 days</b>

## **ARTICLE 11 - GRIEVANCE PROCEDURE**

### **Section 1 - Application**

A grievance may be filed by an employee with regard to the application or interpretation of this Agreement in accordance with the following procedure:

### **Section 2 - Filing Time**

An alleged violation of the application or interpretation of this Agreement must be filed within ten (10) working days from the time of the alleged occurrence. A grievance not so filed will be determined to have been waived.

### **Section 3 - Procedure**

**Step One:** An employee who has a grievance arising from application or interpretation of this Agreement shall present the claim promptly, in writing, to his/her department head, for discussion. This discussion will be completed within three (3) working days, excluding Saturdays and Sundays, after the grievance is presented. The supervisor will respond, in writing, within five (5) working days, excluding Saturdays and Sundays, after completion of the discussion.

**Step Two:** If the grievance is not resolved in Step One it shall be referred in writing, by the Union Representative, within ten (10) working days of the Department Head's response to the Town Supervisor. The Town Supervisor shall, within ten (10) working days, schedule a meeting with the grievant and the grievant's Union Representative(s). The Town Supervisor shall render his decision in writing no later than ten (10) days following the meeting at Step Three.

**Step Three: Binding Arbitration:** If the grievance is not resolved satisfactorily at Step Two of the grievance procedure either party may submit the grievance to binding arbitration within ten (10) working days of the receipt of the answer at Step Two. The parties agree that when a grievance is moved to the point of arbitration, the parties shall then utilize the list from the Public Employment Relations Board to resolve the grievance. All costs associated in the arbitration of the grievance shall be borne equally between the parties. The arbitrator shall have no power to add to, subtract from or modify any terms of this Agreement.

- 1) The time limits in the procedure may be extended by mutual agreement, in writing.
- 2) For the purpose of this definition, days shall not include Saturday, Sunday, or holidays.
- 3) In the case of a group, policy or organization type of grievance, the grievance may be submitted directly to the Department Head by the Association.
- 4) Any step of the grievance procedure may be by-passed by mutual agreement in writing.

#### **Section 4 - Non-compliance**

In the above process, any grievance not referred to the next step within the stated time limits will be considered closed

#### **ARTICLE 12 - DISCIPLINE/DISCHARGE**

A permanent employee covered by this Agreement shall only be disciplined for misconduct or incompetence concerning any alleged act or acts, which occurred in the previous eighteen (18) months. Employees who are the subject/target of disciplinary action are entitled to Union Representation at each step of the process. All disciplinary matters shall be subject to the grievance procedure set forth in Article 11 above, starting with Step Two.

## **ARTICLE 13 - MISCELLANEOUS**

### **Section 1 - Personnel Records**

An individual personnel file on all employees will be maintained at the Town Hall. These files contain information on all employees, including such items as the employee's current address, tax-withholding information, rate of compensation, employee evaluations, payroll records, etc. All employees should be notified prior to additions to personnel files. No adverse comment shall remain in the personnel file beyond eighteen (18) months. All personnel files are considered confidential and may be reviewed only by the individual employee, Town Supervisor, and/or Town Board member. Personnel files cannot be removed from their permanent storage location. An employee's immediate supervisor, the Town Supervisor and the Town Board may submit data at any time for inclusion in the personnel files. All additions to the files will be dated and initialed or signed by the individual responsible for inclusion, and a copy shall be forwarded to the employee. In order that all requests may be honored, employees must submit in writing, to the Town Supervisor, their request to review their personnel file at least three working days prior to the requested review date. All reviews of personnel files will be done in the presence of the Town Supervisor or a Town Board member. All material contained in the personnel file is Town property and may not be removed by the employee or any other person. Employees may be required to sign a document indicating that they have reviewed their file. No information other than the employee's name and dates of services shall be provided to third parties without a written request and direction from an employee or former employee to disclose contents of their personnel file. Some information in an employee's file may be disclosed to the employee or other persons pursuant to the laws of the state of New York and the United States of America. Disclosure of such information shall only be made pursuant to such laws. Any adverse comment about an employee's work performance will first be reviewed by the employee before it is included in the personnel file. The employee shall have the right to attach a rebuttal to adverse comment.

## **Section 2 - Personal Vehicles/Tools**

A. The storage of parked personal vehicles on Town property is at the employee's own risk.

B. When facility space is available, employees may park motorcycles inside the Town garage during working hours. Employees will hold the Town harmless for any damage to motorcycles while in the Town building.

C. Employees with department approval may use Town tools for personal use outside of working hours. Such tools must be returned without damage. If damage occurs the employee is responsible for repair and/or replacement.

D. The Town will not provide its facility on a Saturday or non-work time to any other employees, organization, or municipality unless a bona fide emergency or shared services agreement exists or if a change in municipal structure takes place.

## **Section 3 - Court Clerk**

In addition to the general wage increase negotiated in Article 7 Compensation, the rate of pay for the Clerk of the Justice will be increased as follows:

Effective January 1, 2007 the hourly rate of the Clerk of the Justice will be increased by fifty cents (\$.50) per hour.

Effective January 1, 2008, the hourly rate of the Clerk of the Justice shall be increased by fifty (\$.50) per hour.

The issue contained in U-27659 will be determined by the NYS Public Employment Relations Board.

## **ARTICLE 14 – MANAGEMENT RIGHTS**

Subject only to such regulations governing the exercise of these rights as are expressly provided in this Agreement, or provided by laws, the Employer retains the sole right to manage its business affairs and services and to direct the working force, including:

- A. Subject to provision of the Civil Service Law of the State of New York and such rules as the personnel officer of the County of Chautauqua may adopt and make applicable to the Town, to appoint such employees as it may require for the performance of the duties, to fix and determine their qualification, duties, job titles and compensation, to establish and enforce reasonable rules and regulations of conduct, to suspend, discharge discipline, promote, demote or transfer or release employees because of lack of work or for other proper and legitimate reasons.
- B. The right to fix operating and personnel schedules, determine staffing, arrange transfers, order new work assignments and issue any other order or directive intended to carry out the managerial responsibilities and duties imposed upon the Town by Law.

## **ARTICLE 15 – NON-DISCRIMINATION**

The Town of Portland is dedicated to the goal of providing equal employment opportunity for all persons, without regard to race, color, religion, sex, marital status, national origin, age, disability or sexual orientation.

All employee activity shall be conducted in an environment, which is not hostile or offensive and does not condone sexual, racial or other forms of harassment or intimidation.

## **ARTICLE 16 – SAVINGS CLAUSE**

If any Articles or part thereof of this Agreement or any addition thereto should be declared as in violation of any federal or state law, or if adherence to or enforcement of any Article or part thereof should be restrained by a court of law, the remaining Articles of the Agreement or any addition thereto shall not be affected.

If such determination or decision is made as per this Article, the original parties to this Agreement shall convene for the purpose of negotiating a satisfactory replacement for such Article or part thereof.

## **ARTICLE 17 - MAINTENANCE OF BENEFITS**

With respect to terms and conditions of employment that are mandatory subjects of negotiation not covered by this Agreement, the parties agree that they will adhere to the provisions of Article 14 of the NYS Civil Service Law, also known as the Taylor Law.

## **ARTICLE 18 – DURATION**

The duration of this Agreement shall be effective from January 1, 2007 to December 31, 2009.

## LEGISLATIVE REVIEW

IT IS AGREED BY AND BETWEEN THE PARTIES THAT ANY PROVISION OF THIS AGREEMENT REQUIRING LEGISLATIVE ACTION TO PERMITS ITS IMPLEMENTATION BY AMENDMENT OR LAW OR BY PROVIDING THE ADDITIONAL FUNDS THEREFOR, SHALL NOT BECOME EFFECTIVE UNTIL THE APPROPRIATE LEGISLATIVE BODY HAS GIVEN APPROVAL.

IN WITNESS WHEREOF, THE PARTIES HAVE HEREUNTO SET THEIR HANDS

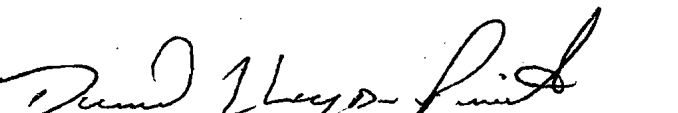
AND SEALS THIS 15<sup>th</sup> DAY OF February, 2008.

CSEA

TOWN

  
PRESIDENT

  
SUPERVISOR

  
VICE PRESIDENT

  
SECRETARY/TREASURER

  
LABOR RELATIONS SPECIALIST



